

AzSPO POLICY

Number: 005

Sole Source Procurements

Statement:

A.R.S. § 41-2536, A.A.C. R7-338 authorizes sole source procurements for materials, services, or construction without competition. Best value is driven by competition and sole source procurement should be avoided as much as possible and should only be utilized when no other reasonable alternative sources exist.

Sole source is not “best” source or the “only” source you will consider. A sole source situation occurs when no other product or service can conceivably serve the needs of an agency. Here are some examples:

- A software maintenance agreement may be a sole source, as the software owner is the only one capable of maintaining and servicing the software. An alarm system maintenance contract is probably not a sole source, as there are often multiple firms qualified to service the system.
- Parts to repair a specific piece of equipment may only be produced by one manufacturer. However, there may be more than one source for the parts. It is often possible to obtain quotes from suppliers that service other areas or states. If you are able to buy the parts cheaper from a source that is 2000 miles away, your local source is probably taking advantage of its captive market.
- Membership in a specific organization is considered a sole source.
- There are times when you need to buy a product that is identical to other products in your system for purposes of consistency or to minimize training costs. Although there may be sufficient justification to buy that specific product, it is not a sole source. It is always best to see what competitors charge for similar products, just to keep your suppliers honest.

The sole source procurement method shall only be utilized for procurements over \$35,000. Approval may be granted by the State Procurement Administrator or designee or the Chief Procurement Officer or designee of an unlimited delegated agency.

Sole source procurements should be the most infrequently used procurement method. The determination of a sole source should occur prior to the initiation of the procurement and should be supported by clear and convincing evidence that no other supplier, material, or service is available to meet the needs.

Following are a few circumstances by which a sole source procurement may be necessary:

- A. Equipment/service with no comparable alternative and is available from only one supplier;
- B. Public utility services;
- C. A replacement part or component where no comparative alternative exists;
- D. An item where compatibility is critical.

A few examples of sole source procurements include:

- ❑ Software upgrades and maintenance
- ❑ Inter-Tribal Council – only agency in Arizona that represents the Indian Tribes
- ❑ Specialized Subscriptions/Books, ie; Dataquest Rental Rate Blue Book
- ❑ Specific technical/testing accreditation

Each situation is unique and must be justified. A thorough analysis of the marketplace must occur to substantiate the request. The sole source request and approval must be maintained in the contract file (Attachment 1).

If the sole source procurement is approved, a contract shall be negotiated with the sole source supplier. In sole source situations, effective negotiation is critical for achieving a fair and reasonable price. In a sole source situation it is “buyer beware”. Negotiation requires a careful analysis of costs, consideration of alternatives, including the “don’t buy” alternative and a willingness to walk away if the deal is not right. Sole source suppliers are notorious for convincing buyers to sign contracts that contain unacceptable and sometimes illegal terms. When receiving a sole source procurement authorization it is the responsibility of the buyer to negotiate a contract that is advantageous to the State and the contract must include the Uniform Terms and Conditions as part of the contract.

Reporting Requirements:

Authority has been delegated to the unlimited agencies for approval of sole source procurements. Agencies must prepare and submit quarterly reports identifying each sole source procurement. The quarterly reports should be submitted by the 10th of the month following the end of each calendar quarter. A sample Sole Source, Impracticable, and Emergency Procurements report format is included as Attachment No. 2 to assist in standardization. Reporting requirements are a condition of agency delegation.

This policy is hereby effective this _____ day of June, 2001.

John O. Adler, CPPO
State Procurement Administrator

Attachments:

Attachment 1, *Procurement Authorization Request* form

Attachment 2, *Sole Source, Impracticable, and Emergency Procurements* report format